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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,696	09/28/2001	Joseph R. Hedrick	0112300-449	5013

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EXAMINER

RADA, ALEX P

ART UNIT PAPER NUMBER

3714

DATE MAILED: 06/27/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/966,696

Applicant(s)

HEDRICK ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 17-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed April 2, 2003, in which the applicant's have amended claims 1, 13, 17, and 22, cancels claims 15 and 16 without prejudice or disclaimer, add new claims 26-53, and claims 1-14 and 17-53 are pending in this office action.

### ***Allowable Subject Matter***

1. The indicated allowability of claims 6, 8-10, 17, and 20-21 are withdrawn in view of the newly discovered reference(s) to Frankel '990. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14, 17-35, 41, and 51-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takatoshi '558 in view of Frankel '990.
4. Takatoshi discloses a cabinet, a support connected to the cabinet, and a container-item holder connected to the support (figure 1) as recited in claims 1, 13, 22, 26, 41, and 51-52; the support having bolster (figure 1) as recited in claims 2, 23, and 27; the bolster includes a substantially vertically extending channel (cylindrical) adapted to receive a container-item holder

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as recited in claims 3, 24-25, and 28. Takatoshi does not expressly disclose a container holder having a bottom surface and an item holder includes means for enabling a player to securely and removeably connect an item to the item holder having the item holder projecting from the bottom surface of the container holder as recited in claims 1, 13, 22, 26, 41, and 51-52; the container-item holder having a container holder and an item holder as recited in claim 4; the container holder includes a body and a flange connected to the body and the flange having a circumference greater than a circumference of the channel in the support adapted to receive the container holder as recited in claims 6, 17, and 30; the item holder having a hook as recited in claims 7; and 31; the container holder having a base and a body connected to the base and the base enabling fluid to drain through the base as recited in claim 8.

Frankel teaches a container holder having a bottom surface and an item holder includes means for enabling a player to securely and removeably connect an item to the item holder having the item holder projecting from the bottom surface of the container holder (figure 25), the container holder includes a body and a flange (figure 25) connected to the body and the flange having a circumference greater than a circumference of the channel in the support adapted to receive the container holder the item holder having a hook, and the container holder having a base and a body connected to the base and the base enabling fluid to drain through the base. By having an item holder (hook) connected or combined with a container holder, it would have been obvious to one of ordinary skill in the art, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art (*Nerwin V. Erlichman*, 168 USPQ 177, 179), to provide securement of loose articles. Therefore, it would have been obvious to one of ordinary skill in the art to modify Takatoshi to include a container holder

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having a bottom surface and an item holder includes means for enabling a player to securely and removeably connect an item to the item holder having the item holder projecting from the bottom surface of the container holder, the container holder includes a body and a flange connected to the body and the flange having a circumference greater than a circumference of the channel in the support adapted to receive the container holder the item holder having a hook, and the container holder having a base and a body connected to the base and the base enabling fluid to drain through the base as taught by Frankel. To do would provide a securement for loose articles.

Regarding claims 5, 9-12, 14, 18-19, 29, 32-35, the particular types of connectors used is a matter of design choice, wherein no stated problem is solved, or unexpected result obtained, by using the specific types of connectors claimed versus the types of connectors taught by the prior art.

5. Claims 20-21, 36-39, 42-50 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankel '990.

6. Frankel discloses a container holding portion adapted to be mounted to a support (figure 25), the container holding portion including a base defining a bottom surface and body extending from the base (figure 25), a chamber for receiving and holding a container (figure 25), the base having at least one opening to enable fluid to drain from the chamber (figure 25), and the item holding portion including a securing member adapted to securely and removeably hold an item of a player having the holding portion projecting from the bottom surface of the container holding portion as recited in claims 20, 36, 42, 49-50, and 53; the base (figure 25) defines at least one opening which enables fluid to drain from the chamber as recited in claims 38 and 45; the container holding portion includes a base, a body extending from the base and the base defining

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a chamber for receiving and holding a container as recited in claim 44; the body includes a flange (figure 25) which has a circumference greater than a circumference of a channel in the support adapted to receive the body as recited in claim 46. Frankel does not expressly disclose the item holding portion having a connecting member connected to or fixedly connected to the container-holding portion. By having an item holder (hook) connected to or fixedly connected with a container holder, it would have been obvious to one of ordinary skill in the art, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art (*Nerwin V. Erlichman*, 168 USPQ 177, 179), to provide securement of loose articles.

Regarding claims 21, 37, 39-40, 43, and 47-48 the particular types of connectors used is a matter of design choice, wherein no stated problem is solved, or unexpected result obtained, by using the specific types of connectors claimed versus the types of connectors taught by the prior art.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-14 and 17-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Cameron '340, Hasegawa '036, Huynh '452, Hunnicutt '649, and Robinson '637 all disclose different types of cup holders with a supporting element.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

*Apr*  
apr  
June 19, 2003



**DERRIS H. BANKS**  
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